

## Vienna Town Code

### CHAPTER 14

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Article 1. In GeneralSec. 14-1 Definitions.

For the purposes of this Chapter, the following words and phrases shall have the meanings respectively ascribed to them by this section:

Health Department. The County Health Department.

Health Officer. The County Health Officer or his authorized representative, the Town Sanitation Officer.

Install, Repair, Approved and Standard. In accordance with specifications and standards established within this Chapter. (Code 1962, § 12-2)

Sec. 14-2 Approved Method of Disposal of Human Excrement-- Required for All Occupied Premises.

It shall be unlawful for the owner of any house used as a human habitation, any warehouse, any public building, or other place where human beings congregate or are employed, in the Town to use or occupy, or rent or lease the same for use or occupancy by any person unless and until the house or building shall have been supplied or equipped with an approved method of disposal of human excrement of such construction as will comply with the requirements designated in this Chapter. (Code 1962, § 12-1)

Sec. 14-3 Same--Enumerated.

For the purpose of this Chapter, "an approved method of disposal of human excrement" shall be deemed to be:

- (a) A flush toilet connected to an approved public or private sewer.
- (b) A flush toilet connected to an approved, properly installed septic tank system.
- (c) A standard pit privy of concrete or double wood construction. (Code 1962, § 12-2)

Sec. 14-4 Separate Toilet Facilities Required for Each Family Dwelling Unit.

Any house or construction used as a human habitation shall have separate toilet facilities for each family dwelling unit. (Code 1962, § 12-2)



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Sec. 14-5    Approved Grade; Back-Up Valves Required.

The finished floor level of any kitchen, bathroom, or other area in which sewerage handling facilities are located shall be a minimum of six (6) inches above the center line grade of the street in front of the property on which such facilities are located; or six (6) inches above the nearest manhole if the sewer be located other than in the abutting street unless permission in writing to waive this requirement is obtained from the Director of Public Works of the Town. The Director of Public Works may waive the above requirements provided he feels that installation below the above-described levels may be safely made. Should the Director of Public Works deem it necessary, an approved check or back-up valve may be required to be installed in the lateral or service serving the property. In the event such valve is required, the property owner shall have full responsibility for maintaining the same. (Code 1962, § 12-2.2)

Sec. 14-6    When Wastes Not to be Added to Town Sewer System.

Wastes from commercial, industrial or manufacturing users shall not be added to the Town sewer system if they are of such a nature as to disrupt the normal action of the sewage treatment plant. (Code 1962, § 12.1)

Sec. 14-7    Specifications of Water and Sewage System to be Approved by Health Officer  
Before Construction Started in New Subdivisions or Developments.

It shall be unlawful for any person to start any new subdivision or housing development before furnishing in triplicate plans and specifications of the sewage system or sewage disposal system to be used together with plans for the anticipated water system to be used in the structure or structures. These plans and specifications shall be approved by the Health Officer or his agent before construction is started. (Code 1962, § 12-10)

Sec. 14-8    Plan for Connection to Public Sewer Required Prior to Issuance of Building  
Permit.

Any other provision of this Code to the contrary notwithstanding, after February 4, 1964, no building permit shall be issued for the erection of a dwelling or other building unless such dwelling or building upon completion thereof is to be sewered by connection to an approved public sewer. (Code 1962, § 12-2; 2-64)

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**Article 2. PRIVATE SEWAGE DISPOSAL SYSTEMS****Sec. 14-9 County License Required for Cleaning or Repairing.**

Any person contracting to repair or clean septic tanks in the Town for another person shall first pay the annual fee required by the County and obtain a license or permit according to the ordinances of the County. (Code 1962, § 12-11)

**Sec. 14-10 Cleaning of Septic Tanks.**

No person shall engage in the business of cleaning septic tanks until the equipment to be used by such person in connection with the operation of such business complies with the following standards and has been inspected and approved in writing by the Health Department.

Such inspection and approval by the Health Department shall be a prerequisite to the obtaining of the license or permit required in § 14-9 or to any renewal thereof; provided, that the following minimum requirements shall be met:

(a) The tank into which the septic tank sludge is pumped or delivered and carried shall be fully enclosed and watertight.

(b) All inlets and outlets to such tank shall be fully enclosed and provided with watertight valves.

(c) Suction and discharge hose shall be watertight and provision shall be made for carrying such hose in a manner that will prevent any leakage therefrom.

(d) All exposed surfaces shall be painted and maintained in a sanitary condition by frequent washings.

(e) The name and address of the person owning or operating such equipment shall be painted thereon in letters at least four (4) inches high.

(f) It shall be unlawful to dispose of the sludge and other material removed from septic tanks except by depositing it under the surface of the ground in such manner that it will not be exposed to the atmosphere or endanger the source of domestic water supplies, or by depositing it into a public sewage system or sewage treatment plant at such designated locations and under such conditions as may be promulgated by the owners or operators thereof. In any event, the sludge or other material shall be carefully deposited and the surfaces of the ground, manholes, tanks, etc., into which the deposit is made shall be maintained in a sanitary condition. Any covering of such surfaces with sludge or other material shall be promptly removed.

(Code 1962, § 12-12)

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Sec. 14-11 Condemnation of Septic Tanks or Pit Privies.

Whenever it appears to the Health Officer or his agent that any septic tank or septic tank system or pit privy is in such condition as to endanger the life, health or safety of any person, whether such condition be the result of defective original construction, deterioration, decay, or other causes, the Health Officer shall condemn the septic tank system or pit privy and forbid further use of same until it is repaired and approved as required herein; provided, that if the building which the condemned septic tank or septic tank system serves is within three hundred (300) feet of a public or private sewer, the owner of such septic tank or septic tank system shall be required to connect to the public or private sewer if the owner of the latter permits such connections. (Code 1962, § 12-13)

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**Article 3. WASTEWATER DISCHARGE REGULATIONS**

(New 3-16-87; Amend 9-26-94)

**Section 14-12 Purpose and policy.** (Amend. 9-26-94)

This ordinance sets forth uniform requirements for all Users of Publicly Owned Treatment Works ("POTW") operated by Fairfax County or the District of Columbia, where the sewage is generated from Town of Vienna owned transmission system, enabling the Town of Vienna to comply with applicable State and Federal laws, including the Clean Water Act (33 U.S.C. §§ 1251 et seq.) and the General Pretreatment Regulations (40 C.F.R. §§ 403.1 et seq.). The objectives of this ordinance are:

(A) To prevent the introduction into the POTW of pollutants which will interfere with the operation of the POTW;

(B) To prevent the introduction into the POTW of pollutants which will pass through the POTW, inadequately treated, into receiving waters or the atmosphere or otherwise be incompatible with the POTW;

(C) To protect both POTW personnel who may be affected by wastewater and sludge in the course of their employment and the general public;

(D) To promote reuse and recycling of industrial waste and sludge from the POTW;

(E) To provide for the equitable distribution of the cost of operations, maintenance and improvement of the POTW;

(F) To facilitate compliance with VPDES and NPDES permit conditions, sludge use and disposal requirements and any other Federal or State laws to which POTWs are subject;

(G) To preserve the hydraulic capacity of the POTW.

This ordinance authorizes the issuance of wastewater discharge permits; provides for monitoring, compliance, and enforcement activities; establishes administrative review procedures; requires Industrial User reporting; and provides for the setting of fees for the equitable distribution of costs resulting from the program established herein.



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Section 14-13 Abbreviations. (Amend. 9-26-94)

The following abbreviations shall have the indicated meanings when used in this ordinance:

BOD	Biochemical Oxygen Demand
C.F.R.	Code of Federal Regulations
EPA	United States Environmental Protection Agency
gpd	Gallons per day
mg/L	Milligrams per liter
NPDES	National Pollutant Discharge Elimination System
VPDES	Virginia Pollutant Discharge Elimination System
POTW	Publicly Owned Treatment Works
RCRA	Resource Conservation and Recovery Act
SIC	Standard Industrial Classification
TSS	Total Suspended Solids
U.S.C.	United States Code
VR	Virginia Regulations

Section 14-14 Definitions. (Amend. 9-14-92; 9-26-94)

Unless specifically indicated otherwise, the following terms and phrases shall have the indicated meanings when used in this ordinance:

**"Act."** The Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 U.S.C. §§ 1251 et seq.

**"Approval Authority."** The Virginia Department of Environmental Quality.

**"Authorized Representative (of the Industrial User)."**

(A) If the Industrial User is a corporation:

(1) The president, secretary, treasurer, or a vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation, or

(2) The manager of one or more manufacturing, production, or operation facilities employing more than 250 persons or having gross annual sales or expenditures exceeding \$25 million (in second-quarter 1980 dollars), if authority to sign documents has been delegated to the manager in accordance with corporate procedures.

(B) If the Industrial User is a partnership or sole proprietorship: a general partner or the proprietor.

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(C) If the Industrial User is a federal, state or local government: a director or the highest official appointed or designated to oversee the operation and performance of the activities of the government facility or other public agency.

(D) The individuals described in paragraphs (A)-(C) above may designate another representative if the authorization is in writing, the authorization specifies the individual or position responsible for the overall operation of the facility from which the discharge originates or having overall responsibility for environmental matters for the company, and the written authorization has been submitted to and approved by the Town of Vienna.

**"Biochemical Oxygen Demand (BOD)."** The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure, for five (5) days at 20° centigrade, usually expressed as a concentration (e.g., mg/L).

**"Building Sewer."** A sewer system which conveys wastewater from the premises of a User to the POTW.

**"Bypass."** The intentional diversion of wastestreams from any portion of an Industrial User's pretreatment facility.

**"Categorical Pretreatment Standard or Categorical Standard."** Any regulation containing pollutant discharge limits promulgated by the EPA in accordance with Section 307(b) and (c) of the Act (33 U.S.C. § 1317) which apply to a specific category of Industrial Users and which are technology based for the purpose of limiting the discharge of pollutants, especially priority pollutants, and which appear in 40 C.F.R. Chapter I, Subchapter N, Parts 405-471.

**"Color."** The optical density at the visual wave length of maximum absorption, relative to distilled water. One hundred percent transmittance is equal to zero optical density.

**"Compatible Pollutant."** Biochemical oxygen demand, suspended solids, phosphorus, pH, fecal coliform bacteria and additional pollutants as identified in the County's Virginia Pollutant Discharge Elimination System (VPDES) permit, if the individual POTW was designed to treat such pollutants, and if, in fact, such POTW does remove such pollutants to a substantial degree.

**"Composite Sample."** The sample resulting from the combination of two or more discrete wastewater samples taken at selected intervals, based on either an increment of flow or time. The composite sample represents the average wastewater quality covering the sampling period.

**"County."** The County of Fairfax, Virginia, or the Board of Supervisors of Fairfax County, Virginia.

**"Director."** The Director of the Town of Vienna Department of Public Works and his authorized representatives.

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**"Domestic-Natured Wastes."** Human excrement and gray water (from showers, washing machines, dishwashers and the like).

**"Environmental Protection Agency or EPA."** The United States Environmental Protection Agency or the Regional Water Management Division Director or other duly authorized official of that agency.

**"Existing Source."** Any source of discharge, the construction or operation of which commenced prior to the publication by EPA of proposed Categorical Pretreatment Standards, which will be applicable to such source if the standard is thereafter promulgated in accordance with section 307 of the Act (33 U.S.C. § 1317).

**"Facilities of the County."** Any POTW, treatment works, or portion thereof, which is owned or operated by Fairfax County or the District of Columbia.

**"Flashpoint."** The minimum temperature at which vapor combustion will spread away from its source of ignition. Below this temperature, combustion of the vapor immediately above the liquid will either not occur or will occur only at the point of ignition.

**"Grab Sample."** A sample which is taken from a waste stream without regard to the flow of the waste stream and over a period of time not to exceed fifteen (15) minutes.

**"Indirect Discharge or Discharge."** The introduction of pollutants into a POTW from any source.

**"Industrial User."** Any source of indirect discharge of industrial wastes into a POTW.

**"Industrial Wastes."** Pollutants, exclusive of Domestic-Natured Wastes, which result from any industrial, manufacturing, business, trade, institutional, service or similar process, including cooling water and process wastewater.

**"Instantaneous Maximum Allowable Discharge Limit."** The maximum concentration of a pollutant allowed to be discharged at any time, determined from the analysis of any discrete or composite sample collected, independent of the industrial flow rate and the duration of the sampling event.

**"Interference."** A discharge, which alone or in conjunction with a discharge or discharges from other sources, inhibits or disrupts the POTW, its treatment processes or operations or its sludge processes, use or disposal; and therefore, is a cause of a violation of the County or District's VPDES permit or an NPDES permit or of the prevention of sewage sludge use or disposal in compliance with any of the following statutory/regulatory provisions or permits issued thereunder, or any more stringent State or local regulations: Section 405 of the Act; the Solid

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Waste Disposal Act [including RCRA]; any state sludge management plan prepared pursuant to Subtitle D of the Solid Waste Disposal Act; the Clean Air Act; the Toxic Substances Control Act; and the Marine Protection, Research and Sanctuaries Act.

**"Medical Wastes or Infectious Wastes."** Pollutants defined by the Virginia Department of Waste Management's Infectious Waste Management Regulations, VR 672-40-01 §§ 3.4 and 3.5, including but not limited to, isolation wastes, infectious agents, human blood and blood byproducts, pathological wastes, sharps, body parts, fomites, etiologic agents, contaminated bedding, surgical wastes, potentially contaminated laboratory wastes and dialysis wastes.

**"New Source."** Any building, structure, facility or installation from which there is or may be a discharge, the construction or operation of which commenced after the publication of proposed Categorical Pretreatment Standards under Section 307(c) [33 U.S.C. § 1317(c)] of the Act which will be applicable to such source if the standard is thereafter promulgated in accordance with section 307(c), provided that:

- (A) No other source is located at that site; or
- (B) The source completely replaces the process or production equipment of an Existing Source at the site; or
- (C) The new wastewater generating process of the source is substantially independent of an Existing Source at the site; and the construction of the source creates a new facility rather than modifies an Existing Source, at that site.

For purposes of this definition, construction or operation has commenced if the owner or operator has:

- (A) Begun, or caused to begin as part of a continuous on-site construction program:
  - (1) Any placement, assembly, or installation of facilities or equipment; or
  - (2) Significant site preparation work including clearing, excavation, or removal of existing buildings, structures, or facilities which is necessary for the placement, assembly, or installation of New Source facilities or equipment; or
- (B) Entered into a binding contractual obligation for the purchase of facilities or equipment which are intended to be used in its operation within a reasonable time. Options to purchase or contracts which can be terminated or modified without substantial loss, and contracts for feasibility, engineering, and design studies do not constitute a contractual obligation under this definition.



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**"Non-Contact Cooling Water."** Water used for cooling which does not come into direct contact with any chemical addition, raw material, intermediate product, waste product or finished product.

**"Non-Industrial User."** Any source of the indirect discharge of solely domestic-natured waste.

**"Ordinance."** Unless otherwise indicated, "this ordinance" refers to Chapter 14 of the Town of Vienna Code.

**"Pass Through."** A discharge which exits from the POTW treatment plant into receiving waters in quantities or concentrations which, alone or in conjunction with discharge(s) from other sources, is a cause of a violation of any requirement of the VPDES or NPDES permit, including an increase in the magnitude or duration of a violation.

**"Person."** Any individual, partnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity or any other legal entity, or their legal representatives, agents, or assigns. This definition includes, without limitation, all federal, state or local governments entities.

**"pH."** A measure of the acidity or alkalinity of a substance, expressed in standard units; logarithm (base 10) of the reciprocal of the concentration of hydrogen ions expressed in moles per liter of solution.

**"Pollutant."** Any substance, except water that is less than or equal to 150°F (65.5°C), which either alone or in conjunction with water, is permitted to enter a POTW. "Pollutant" includes, but is not necessarily limited to dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, sewage sludge, munitions, medical wastes, chemical wastes, biological materials, radioactive materials, wrecked or discarded equipment, rock, sand, cellar dirt and municipal, agricultural and industrial wastes.

**"Premises Having Access to the Facilities of the Town of Vienna."** Any premises which abuts a highway, street, alley, public space or private property on which the Facilities of the Town of Vienna or Fairfax County are located and which is not more than three hundred (300) feet from the Facilities of the Town of Vienna and which can be served by the Facilities of the Town of Vienna.

**"Pretreatment."** The reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater prior to, or in lieu of, introducing such pollutants into the POTW. This reduction, elimination or alteration can be obtained by physical, chemical or biological processes, by process changes or by other means, except by diluting the concentration of the pollutants unless allowed by an applicable pretreatment standard.

**"Pretreatment Requirement."** Any substantive or procedural requirement related to pretreatment that is imposed on an Industrial User.

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**"Pretreatment Standards."** Prohibited discharge standards, Categorical Pretreatment Standards and local limits.

**"Priority Pollutants."** The sixty-five (65) classes of pollutants listed in 40 C.F.R. § 401.15 pursuant to Section 307(a)(1) of the Act, and subsequently defined by the EPA as 126 specific compounds.

**"Prohibited Discharge."** A pollutant that shall not be introduced into a POTW, as set forth in National Pretreatment Standards: Prohibited Discharges, 40 C.F.R. § 403.5 and § 67.1-2-1.

**"Publicly Owned Treatment Works (POTW)."** Any "treatment works," as defined by Section 212 of the Act (33 U.S.C. § 1292). This definition includes any devices or systems used in the collection, storage, treatment, recycling and reclamation of sewage or industrial wastes of a liquid nature and any conveyances which convey wastewater to a treatment plant.

**"Sewerage Facilities."** Any plumbing system, piping system, fixture or other appurtenance which is designed to carry wastewater.

**"Significant Industrial User."** The term "Significant Industrial User" shall mean:

(A) Industrial Users subject to Categorical Pretreatment Standards; or

(B) Any other Industrial User that:

(1) Discharges an average of 25,000 gpd or more of process wastewater, excluding sanitary, noncontact cooling and boiler blowdown wastewater; or

(2) Contributes a process wastestream which makes up 5 percent or more of the average dry weather hydraulic or organic capacity of the POTW treatment plant; or

(3) Is designated as significant by the Town of Vienna on the basis that the Industrial User has a reasonable potential for violating any pretreatment standard or requirement.

**"Slug Discharge."** Any discharge at a flow rate or concentration which constitutes a violation of the prohibited discharge standards.

**"Standard Industrial Classification (SIC) Code."** A classification pursuant to the Standard Industrial Classification Manual issued by the United States Office of Management and Budget.

**"Storm Water."** Any flow occurring during or following any form of natural precipitation, and resulting from such precipitation, including snowmelt.

**"Suspended Solids."** The total suspended matter that floats on the surface of, or is suspended in, water, wastewater, or other liquid, and which is removable by laboratory filtering.

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**"Town."** The Town of Vienna, Virginia.

**"Toxic Substance."** One of the pollutants or any combination of those pollutants listed as toxic in regulations promulgated by the EPA under the provision of Section 307 (33 U.S.C. § 1317) of the Act and any other substance deemed toxic by the Director.

**"Upset."** An exceptional incident in which there is unintentional and temporary noncompliance with pretreatment standards and requirements because of factors beyond the reasonable control of the Industrial User. Noncompliance caused by operational error, improperly designed pretreatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation does not constitute an upset.

**"User."** Any person who contributes, causes or permits any discharge into the POTW and the owner and tenant of any premises which contributes any discharge into the POTW.

**"Wastewater or Sewage."** Liquid and water-carried pollutants from any source which enters the POTW.

**"Wastewater Constituents and Characteristics."** The individual chemical, physical, bacteriological and radiological components, including volume and flow rate and other such parameters that serve to define, classify or measure the contents, quality, quantity and strength of wastewater; parameters include any pollutant expected to be present which is listed under 40 C.F.R., Part 122, Appendix D, Tables II-V.

Section 14-15 Responsibility of Director for Facilities of the Town of Vienna.

(New 9-26-94)

The Director shall have direct charge of the Facilities of the Town of Vienna, including responsibility for the operation, maintenance and administration thereof.

Section 14-16                      Standards of Design, Construction and Operation of Facilities of the Town of Vienna. (New 9-26-94)

The Director shall prepare such standards as may be necessary to regulate the design, construction and operation of Facilities of the Town of Vienna. Such standards shall be subject to amendment from time to time as conditions warrant and shall be subject to the approval of the Vienna Town Council.

Section 14-17                      Director's Right of Entry to Premises. (New 9-26-94)

All premises connected to the Facilities of the Town of Vienna shall, at all reasonable hours, be open to the Director for the purpose of installing, removing, repairing,

maintaining, measuring or sampling or for inspecting the premises, fixtures and appurtenances therein which are connected to the Facilities of the Town of Vienna.

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Section 14-18      Sewerage Facilities in New Subdivisions, Developments or Projects.  
(New 9-26-94)

(A) Any person who intends to construct any new subdivision, development or project within the Town of Vienna shall, before commencing with the construction thereof, furnish to the Director, in triplicate, the plans, specifications and contract documents for the Facilities of the Town of Vienna contemplated to be constructed therein which affect or may affect the Facilities of the Town of Vienna. The construction of such sewerage facilities shall not commence until the plans, specifications and contract documents therefor have been approved by the Director.

(B) Such plans, specifications and contract documents shall be submitted in the manner required by the Director as approved by the Town Council.

(C) The Director shall review such plans, specifications and contract documents to determine whether they comply with the standards for the completion of sewerage facilities as approved by the Town Council. If such plans, specifications and contract documents do so comply the Director shall approve the same for construction.

(D) Any deviation from the manner of submitting such plans, specifications and contract documents or any deviation from the standards as approved by the Town Council shall be cause for the Director to refuse to review or approve such plans, specifications or contract documents.

(E) Any person contemplating the construction of sewerage facilities shall submit, at the time of submitting the plans, specifications and contract documents therefor, a written contract approved by the Town Attorney providing that upon completion of the construction of such sewerage facilities and the approval thereof by the Director, the sewerage facilities so constructed shall become the property of the Town Council and shall thereafter be subject to all of the regulations concerning the Facilities of the Town of Vienna.

Section 14-19 Damaging, Tampering with Structures, Equipment  
Prohibited. (New 9-26-94)

No person shall maliciously, willfully or negligently break, damage, destroy, uncover, deface or tamper with any structure, apparatus or equipment which is part of the Facilities of the Town of Vienna. Unless specifically authorized by the Director, no person shall remove any manhole cover which is part of the Facilities of the Town of Vienna.

Section 14-20 Damaging or Defacing Property; Cutting Trees; Dumping Refuse or Rubbish. (New 9-26-94)

No person shall damage or deface the Facilities of the Town of Vienna and no person shall cut any trees or dump any refuse or rubbish upon any part of the property used in connection with the Facilities of the Town of Vienna.



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Section 14-21 Damage to Facilities of the Town of Vienna To Be Reported to Director; Liability for Payment. (New 9-26-94)

In the event of damage to any part of the Facilities of the Town of Vienna, it shall be the responsibility of the person causing such damage to immediately notify the Director. The necessary repairs or replacement shall be made by the Town or the County or under supervision of the Town of Vienna at the expense of the person causing such damage.

Section 14-22 Protection from New Construction of Plumbing Connections or Sewerage Facilities. (New 9-26-94)

Any person engaged in construction of an authorized plumbing connection or sewerage facilities shall comply with all provisions of this ordinance as well as Chapter 65 of the Fairfax County Code (Plumbing and Gas Provisions), and shall install adequate safeguards during construction to ensure compliance at all times.

Section 14-23 Removal of Safety and Warning Devices Prohibited. (New 9-26-94)

No person shall maliciously, willfully or negligently break, remove, destroy, move, deface or tamper with any safety light, barricade, or other safety device placed for either the public or workers' protection during the construction, repair or maintenance of any sewerage facility.

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**ARTICLE 4. GENERAL SEWER USE REQUIREMENTS** (New 9-26-94)Section 14-24 Prohibited Discharge Standards. (New 9-26-94)**(A) General Prohibitions.**

(1) No User shall discharge or cause to be discharged into the POTW any pollutant(s) which will cause an interference or a pass through or which is harmful to the health, safety or welfare of POTW personnel or the general public.

(2) No User shall discharge industrial waste to the POTW except as specifically approved in writing by the Director.

**(B) Specific Prohibitions.** No User shall discharge the following pollutants into the POTW:

(1) Pollutants which may create a fire or explosive mixture in the POTW, including, but not limited to, wastestreams with a closed-cup flashpoint of less than 140°F (60°C) using the test method specified in 40 C.F.R. § 261.21. At no time shall either of two successive readings on an explosion hazard meter at the point of discharge into the system or at any point in the system be more than five percent (5%) nor any single reading over ten percent (10%) of the lower explosive limit (LEL) of the meter. Such pollutants include, but are not limited to, gasoline, kerosene, naphtha, benzene, toluene, xylene, ethers, alcohols, ketones, aldehydes, peroxides, chlorates, perchlorates, bromates, carbides, hydrides and sulfides.

(2) Pollutants having a pH less than 5.0 or more than 11.0, or which could otherwise cause corrosive structural damage to the POTW. Such pollutants include, but are not limited to acids, sulfides, concentrated chloride and fluoride compounds and substances which will react with water to form acidic or alkaline products.

(3) Solid or viscous substances in amounts which may cause obstruction of the flow in the POTW, including substances which may solidify or become viscous at temperatures between 32°F (0°C) and 150°F (65.5°C) and a pH between 5.0 and 11.0, but in no case solids greater than one half inch (1/2") in any dimension. Prohibited materials include, but are not limited to, grease, animal guts or tissues, paunch manure, bones, hair, hides or fleshings, entrails, whole blood, feathers, ashes, cinders, sand, cement, spent lime, stone or marble dust, metal, glass, straw, shavings, grass clippings, rags, spent grains, spent hops, wastepaper, wood, plastics, tar, asphalt residues, residues from refining or processing of fuel or lubricating oil, mud, or glass grinding or polishing wastes.

(4) Pollutants, including oxygen-demanding pollutants, released in a discharge at a flow rate and/or concentration which, either singly or by interaction with other pollutants, will cause interference with the POTW.

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(5) Wastewater having a temperature greater than 150°F (65.5°C), or which, due to its temperature, will inhibit biological activity in the treatment plant, but in no case wastewater which will cause the temperature of the wastewater entering the treatment plant to exceed 104°F (40°C).

(6) Petroleum oil, non-biodegradable cutting oil, or products of mineral oil origin, in amounts that will cause an interference or a pass through, not to exceed 100 ppm;

(7) Pollutants which result in the presence of toxic gases, vapors or fumes within the POTW in a quantity that may be injurious to the public health, safety and welfare.

(8) Trucked or hauled pollutants, except at discharge points designated by the Director in accordance with § 67.1-3-5.

(9) Wastewater containing any noxious or malodorous liquids, gases, solids or other pollutant which, either alone or by interaction with other pollutants, is sufficient to create a public nuisance or hazard to life or is sufficient to prevent the safe entry of the POTW by maintenance and repair personnel.

(10) Wastewater having color characteristics which cannot be removed by the treatment process, including but not limited to dye wastes and vegetable tanning solutions, or wastewater which imparts sufficient color to the POTW's effluent to violate the VPDES or NPDES permits.

(11) Wastewater containing any radioactive wastes or isotopes of such half-life or concentration as to violate the limits established by applicable County, State or Federal regulations, including but not limited to VR § 680-21-01.12 and 10 C.F.R. § 20.2003.

(12) Storm water, surface water, ground water, roof runoff or subsurface drainage, except as specifically authorized by the Director.

(13) Medical wastes, except as specifically authorized by the Director.

(14) Hazardous wastes, as defined by 40 C.F.R., Part 261, except as may be specifically authorized by the Director.

(15) Pollutants discharged to the POTW other than by an approved building sewer connection or discharge point.

(16) Wastes which are economically recyclable, including antifreeze (ethylene glycol), as determined by the Director.

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(C) The pollutants prohibited by this section shall not be processed or stored in such a manner that they could be discharged to the POTW. All floor drains located in process or materials storage areas must flow to the Industrial User's pretreatment facility before connecting with the POTW, unless an alternate system is approved by the Director.

Section 14-25 National Categorical Pretreatment Standards. (New 9-26-94)

(A) This Chapter incorporates by reference the Categorical Pretreatment Standards set out in 40 C.F.R., Chapter I, Subchapter N, Parts 405-471.

(B) Upon the promulgation of the National Categorical Pretreatment Standards for an industrial subcategory, the Federal Standard, if more stringent than the limitations imposed by the Town and the County and/or by the State for such subcategory, shall immediately supersede the Town and the County and/or State limitations.

(C) Where a Categorical Pretreatment Standard is expressed only in terms of either the mass or the concentration of a pollutant in wastewater, the Director may impose equivalent concentration or mass limits in accordance with 40 C.F.R. § 403.6(c).

(D) When wastewater subject to a Categorical Pretreatment Standard is mixed, prior to the sampling location, with wastewater not regulated by the same standard, the Director shall, as appropriate, impose an alternate limit using the combined wastestream formula in 40 C.F.R. § 403.6(e). Standards apply at the end of the regulated process unless the standard indicates otherwise.

(E) An Industrial User may obtain a variance from a Categorical Pretreatment Standard if it can prove, pursuant to the procedural and substantive provisions of 40 C.F.R. § 403.13, that factors relating to its discharge are fundamentally different from the factors considered by EPA when developing the Categorical Pretreatment Standard.

(F) An Industrial User may obtain a net/gross adjustment to a Categorical Pretreatment Standard in accordance with 40 C.F.R. § 403.15.

Section 14-26 State Pretreatment Standards. (New 9-26-94)

(A) Users are required to comply with applicable State pretreatment standards and requirements as set out in VR 680-14-01, which is incorporated herein by reference.

(B) Upon the promulgation by the State of requirements and limitations on discharges that are more stringent than the equivalent Federal and Town and County limitations, the State limitation shall apply.



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Section 14-27 Local Limits. (New 9-26-94)

The Director may impose maximum mass and/or concentration discharge limits for any pollutant, to protect the POTW from pass through or interference and to ensure that the treatment plant complies with the objectives of § 14-12 and applicable State and Federal law. The applicable limitation(s) shall apply at the point where the wastewater is discharged into the POTW. Alternately, a User may elect to comply with local limits restrictions, measured at the end of process, in lieu of providing a monitoring facility or of separating domestic-natured wastestreams from industrial wastestreams. All concentrations for metallic substances are for "total" metal.

Compliance with all parameters may be determined by the Town or the County from a single grab sample. Where specific prohibitions or limits on pollutants are developed for the POTW in accordance with this section, such limits are deemed pretreatment standards.

Section 14-28 Right of Revision. (New 9-26-94)

The Town of Vienna reserves the right to establish, by ordinance or in wastewater discharge permits, more stringent standards or requirements on discharges to the POTW.

Section 14-29 Dilution. (New 9-26-94)

No User shall increase the volume of water used in any process or operation which is discharged into the sanitary sewer, or in any way attempt to dilute its discharge, as a partial or complete substitute for adequate pretreatment, to achieve compliance with a discharge limitation, unless expressly authorized by an applicable pretreatment standard.

Section 14-30 Special Agreement. (New 9-26-94)

Nothing in this Chapter shall be construed as prohibiting a special agreement between the Town of Vienna and an Industrial User, regarding the treatment of its waste, so long as such agreement is consistent with the purposes and policies set forth in Section 14-12.

Section 14-31 Water and Wastes from Privately-Owned Treatment Facilities. (New 9-26-94)

Water or wastes from any privately-owned community, municipal or corporate treatment facility may be discharged into the Facilities of the County only after the execution of an agreement between the County and owner of such facility that provides for reimbursement to the County of the cost of treatment of such water or wastes. Any such discharge shall comply with all provisions of this ordinance.

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Section 14-32 Compatible Pollutant Limitations. (New 9-26-94)

The discharge into the POTW of any waters or wastes containing any of the parameters listed below and equaling or exceeding the respective amounts indicated shall be subject to review and approval of the Director and may be subject to a surcharge as determined by the Director.

- (A) A discharge flow of twenty-five thousand (25,000) gallons per day.
- (B) A BOD of two hundred fifty (250) mg/L or a mass emission of twenty-three and seven-tenths (23.7) kilograms per day.
- (C) A suspended solids of two hundred seventy-five (275) mg/L or a mass emission of twenty-six (26.0) kilograms per day.
- (D) A total phosphorus of nine (9) mg/L or a mass emission of eighty-five hundredths (0.85) kilograms per day.

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**ARTICLE 5. PRETREATMENT OF WASTEWATER** (New 9-26-94)Section 14-33 Pretreatment Facilities. (New 9-26-94)

Industrial Users shall provide such wastewater pretreatment as necessary to comply with this ordinance and shall achieve compliance with all Categorical Pretreatment Standards, local limits and prohibited discharge standards within the time limitations specified by EPA, the State or the Director, whichever is more stringent. All facilities necessary for such compliance shall be provided, operated and maintained at the Industrial User's expense. Detailed plans and, in the case of proposed modifications to existing facilities, plan revisions showing the pretreatment facilities and operating procedures, including preventive maintenance, shall be submitted to the Director for review, and shall be acceptable to the Director before the construction or modification of the facility. The approval of such plans shall in no way relieve the Industrial User from its responsibility to modify the facility as necessary to produce a discharge acceptable to the Town and the County under the provisions of this ordinance.

Section 14-34 Additional Pretreatment Measures. (New 9-26-94)

(A) Whenever deemed necessary to protect the POTW or to determine an Industrial User's compliance with this ordinance, the Director may require Industrial Users to restrict their discharge during peak flow periods, discharge wastewater only to designated sewers, relocate and/or consolidate points of discharge, separate domestic-natured sewage wastestreams from industrial wastestreams, and take such other measures as may be necessary.

(B) Notwithstanding the provisions of Section 14-29, which prohibit wastewater dilution, the Director may permit the use of equalization tanks or facilities for the purpose of protecting against hydraulic surges and slug discharges.

(C) Grease, oil and sand interceptors shall be provided when, in the opinion of the Director, they are necessary for the proper handling of wastewater that is likely to contain such substances, except that such interceptors shall not be required for residential Users. All interception units shall be of a type and capacity approved by the Director and shall be so located as to be easily accessible for cleaning and inspection. Such interceptors shall be regularly inspected and, as necessary, cleaned and repaired at the expense of the Industrial User.

(D) Industrial Users with the potential to discharge flammable substances may be required to install and maintain an approved combustible gas detection meter.

Section 14-35 Maintenance Records. (New 9-26-94)

Industrial Users shall maintain complete maintenance and operation records for their pretreatment facilities and shall retain such records for a minimum period of three years. Such



records shall be available during normal working hours for inspection and copying, on request of the EPA, the State Water Control Board or the County or the Town.

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Section 14-36 Accidental Discharge/Slug Control Plans. (New 9-26-94)

Each Industrial User shall provide protection from accidental discharge of materials which may interfere with the POTW. As determined by the Director, those Industrial Users which, due to the nature of their operation, have a reasonable potential to discharge materials which may interfere with the POTW must develop and implement an Accidental Discharge/Slug Control Plan ("Plan"). No Industrial User shall implement its Plan until it has been approved by the Town and the County. The Plan shall include, at a minimum, the following:

(A) Description of discharge practices, including non-routine batch discharges.

(B) Description of stored chemicals.

(C) Procedures for immediately notifying the Director of any accidental or slug discharges or any discharge which would violate any of the prohibited discharges or pretreatment standards enumerated in Article 2 of this ordinance.

(D) Procedures to prevent adverse impact from any accidental or slug discharge. Such procedures shall include, but not be limited to, inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of plant site run-off, worker training, building of containment structures or equipment, measures for containing toxic organic pollutants (including solvents), control of plant production, and/or measures and equipment for emergency response.

Section 14-37 Hauled Wastewater. (New 9-26-94)

(A) Septic tank wastes, portable toilet waste and other wastes authorized by the Director may be introduced into the POTW, by haulers who possess a valid Fairfax County Health Department Sewage Handler License, only at locations designated, at such times as are established and for such charges as may be set, by the Director. The Director may require such haulers to obtain wastewater discharge permits, complete waste tracking forms, conduct waste analysis prior to discharge, collect representative samples and/or obtain the approval of the Director prior to each discharge into the POTW. Such waste shall not violate Article 2 of this ordinance or any other requirements established by the Town or the County.

(B) The discharge of any hauled industrial waste into the POTW is prohibited except as specifically approved by the Director. Such discharges are otherwise subject to this ordinance and may be subject to additional treatment surcharges.

(C) Hauled wastewater from any jurisdiction outside the County, except for the cities of Fairfax and Falls Church and the towns of Clifton, Herndon and Vienna, is prohibited from being discharged into the POTW.

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**ARTICLE 6. WASTEWATER DISCHARGE PERMIT APPLICATION** (New 9-26-94)Section 14-38 Wastewater Analysis. (New 9-26-94)

When requested by the Director, an Industrial User shall submit information on its wastewater constituents and characteristics within thirty (30) days of such request. An Industrial User that constitutes a New Source shall submit such information prior to commencing its discharge. The Director is authorized to prepare a survey form for this purpose and may periodically require Industrial Users to update the survey. Failure to complete this survey shall be reasonable grounds for terminating service to the Industrial User.

Section 14-39 Wastewater Discharge Permit Requirement. (New 9-26-94)

(A) No Significant Industrial User shall discharge wastewater into the POTW without first obtaining a wastewater discharge permit from the Director, except that a Significant Industrial User that has filed a timely application pursuant to Section 14-41 of this ordinance may continue to discharge for the time period specified therein.

(B) The Director may require other Industrial Users to obtain wastewater discharge permits as necessary to carry out the purposes of this ordinance.

(C) Obtaining a wastewater discharge permit does not relieve a permittee of its obligation to comply with all Federal and State pretreatment standards or with any other requirements of Federal, State and County law.

Section 14-40 Confidential Information. (New 9-26-94)

Information and data on a User obtained from reports, surveys, wastewater discharge permit applications, wastewater discharge permits, monitoring programs and inspection and sampling activities, shall be available to the public without restriction, unless the User specifically requests, and is able to demonstrate to the satisfaction of the Director, that the release of such information would divulge information, processes or methods of production entitled to protection as trade secrets under applicable State law. Information that the User wishes to be treated as confidential shall so indicate by labeling or otherwise designating on the top of each page the words "Confidential Business Information." Information deemed confidential by the Director shall not be made available for inspection by the public, but shall be made available, upon request, to governmental agencies for uses related to the NPDES program or pretreatment program, and for enforcement proceedings involving the User. Wastewater constituents and characteristics and other "effluent data," as defined by 40 C.F.R. § 2.302, shall not be recognized as confidential information and will be available to the public without restriction.

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Section 14-41 Wastewater Discharge Permitting: Existing Connections. (New 9-26-94)

Any User that does not possess a valid wastewater discharge permit, as of the effective date of this ordinance, and that is required by this ordinance to obtain such permit, and that was discharging into the POTW prior to the effective date of this ordinance, shall, within thirty (30) days after said date, apply to the Director for a wastewater discharge permit in accordance with this ordinance. Such User shall not cause or allow discharges to the POTW after the effective date of this ordinance except in accordance with a valid wastewater discharge permit.

Section 14-42 Wastewater Discharge Permitting: New Connections. (New 9-26-94)

Any Significant Industrial User proposing to begin or recommence discharging industrial wastes into the POTW must obtain a wastewater discharge permit for such discharge prior to the beginning or commencement of such discharge.

Section 14-43 Wastewater Discharge Permit Application Contents. (New 9-26-94)

(A) No permit shall be granted to an Industrial User until it has submitted the information required by Section 14-53 of this ordinance, as applicable, and an application containing the following information:

(1) Description of the activities, facilities, and plant processes on the premises, including a list of all raw materials and chemicals used or stored at the facility which are, or could accidentally or intentionally be, discharged to the POTW.

(2) Number and type of employees, hours of operation, and proposed or actual hours of operation.

(3) Each product produced by type, amount, process or processes, and average rate of production.

(4) Type and amount of raw materials processed (average and maximum per day).

(5) The site plans, floor plans, mechanical and plumbing plans, detailed to show all sewers, floor drains, and appurtenances by size, location, and elevation, and all points of discharge.

(6) Time and duration of discharges.

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(7) If additional pretreatment or operation and maintenance ("O&M") will be required to meet the standards, then the Industrial User shall prepare a schedule to indicate the shortest amount of time necessary to accomplish installation or adoption of such additional treatment or O&M and in no event shall the completion date be later than the compliance date established for an applicable pretreatment standard. The following conditions apply to this schedule:

(a) The schedule shall contain dates for the commencement and completion of additional pretreatment measures as required for the Industrial User to meet the applicable pretreatment standards. No increment shall exceed nine months, nor shall the total compliance period exceed eighteen months.

(b) No later than 14 days following each date in the schedule and the final date for compliance, the Industrial User shall submit a progress report to the Director including as a minimum, whether or not the Industrial User complied with the requirements for incremental progress, the reason for any delay, and the steps being taken by the Industrial User to return to the established schedule. In no event shall more than nine months elapse between such progress reports to the Director.

(8) Any other information deemed necessary by the Director to evaluate the wastewater discharge permit application.

(B) Incomplete or inaccurate applications will not be processed and will be returned to the Industrial User for revision.

(C) The Director may periodically require Industrial Users to update wastewater discharge permit application information. Failure to provide such information within a reasonable period of time shall be grounds to terminate service to the Industrial User.

#### Section 14-44 Application Signatories and Certification. (New 9-26-94)

All wastewater discharge permit applications and Industrial User reports must be signed by an Authorized Representative of the Industrial User and contain the following certification statement:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete.



I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

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Section 14-45 Wastewater Discharge Permit Decisions. (New 9-26-94)

The Director will evaluate the data furnished by the Industrial User and, within ninety (90) days of receipt of all required information, determine whether or not to issue a wastewater discharge permit. The failure to make such a decision within the required period will be deemed a denial of the application.



**ARTICLE 7. WASTEWATER DISCHARGE PERMIT ISSUANCE PROCESS**

(New 9-26-94)

Section 14-46 Wastewater Discharge Permit Duration. (New 9-26-94)

Permits shall be issued for the time period specified by the Director, not to exceed five (5) years from the effective date of the permit.

Section 14-47 Wastewater Discharge Permit Contents. (New 9-26-94)

## (A) Wastewater discharge permits must contain:

- (1) A statement that indicates the duration of the permit and its expiration date.
- (2) A statement that the permit is nontransferable without prior notification to and written approval from the Director, in accordance with Section 14-50, and further, that the current User is responsible for furnishing the new User with a copy of the existing permit.
- (3) Applicable effluent limits based on Federal, State and County standards.
- (4) A statement of self-monitoring, sampling, reporting, notification and record keeping requirements. These requirements shall include an identification of pollutants to be monitored, sampling location, sampling frequency, and sample type based on Federal, State and County law.
- (5) A statement of the applicable penalties for violation of the pretreatment standards and requirements, and compliance schedules.
- (6) Requirements for the reporting of any instance of noncompliance by the permittee to the Director.

## (B) Permits may also contain, without limitation:

- (1) Limits on the instantaneous, daily and monthly average and/or maximum concentration, mass, flow or other measure of pollutant discharge.
- (2) Requirements for the installation of pretreatment technology or the construction of appropriate containment devices that are designed to reduce, eliminate or prevent the introduction of pollutants into the POTW. Waste minimization plans may be required.

(3) Requirements for the development and implementation of spill control plans or other special conditions, including management practices, necessary to adequately prevent accidental, unanticipated, or non-routine discharges.

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(4) The unit charge or schedule of User charges and fees for the management of the wastewater discharged to the POTW.

(5) Compliance schedules for meeting pretreatment standards and requirements.

(6) A statement that compliance with permit terms does not relieve the permittee of responsibility for compliance with all applicable Federal and State pretreatment standards, including those which become effective during the term of the permit.

(7) Requirements for the installation and maintenance of inspection and sampling facilities and equipment.

(8) Such additional conditions as are deemed necessary by the Director to ensure compliance with this ordinance.

Section 14-48 Wastewater Discharge Permit Appeals. (new 9-26-94)

(A) Any person aggrieved, including the Industrial User, may file a written petition with the Director to reconsider and change a decision, regarding the issuance of a permit or its terms, within thirty (30) days of the date of the notice that the Permit is denied or awarded. Such an appeal is deemed timely filed if received at the office of the Director within thirty (30) days of the date of such notice or, if mailed, if properly addressed to the Director and postmarked within thirty (30) days of the date of such notice, provided that such appeal, if mailed, is actually received by the Director within 45 days of the date of such notice.

(B) Failure to submit a timely petition shall be deemed to be a waiver of the right to appeal.

(C) In its petition, the appealing party must indicate the permit provisions objected to, the reasons for any objection, and the alternative condition, if any, it seeks to have included in the permit.

(D) The decision appealed is not stayed pending the outcome of the appeal.

(E) If the Director fails to act on the appeal within thirty (30) days, the petition to reconsider shall be deemed to be denied. Decisions not to reconsider a permit, not to issue a permit or not to modify a permit shall be considered final administrative action for the purposes of judicial review.

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(F) If the ruling made by the Director is unsatisfactory to the person requesting reconsideration, he may, within ten (10) days after notification of the Town of Vienna's action, file a written appeal to the Vienna Town Council. Failure of the Council to rule on such appeal within sixty (60) days from the date of filing shall be deemed to be a denial of the appeal. The Director's decision, action or determination shall remain in effect during such period of reconsideration.

Section 14-49 Wastewater Discharge Permit Modification. (New 9-26-94)

The Director may modify a permit at any time for good cause including, but not limited to, the following:

(A) To incorporate any new or revised Federal, State, or local pretreatment standard or requirement.

(B) To address significant alterations or additions to the Industrial User's operation, processes, or wastewater volume or character since the time of permit issuance.

(C) A change in the POTW that requires either a temporary or permanent reduction or elimination of a previously authorized discharge.

(D) Information indicating that the permitted discharge poses a threat to the POTW, POTW personnel, or the receiving waters.

(E) A violation of any terms or conditions of the permit.

(F) A misrepresentation or failure to fully disclose all relevant facts in the permit application or in any required reporting.

(G) A revision of or a grant of a variance, pursuant to 40 C.F.R. § 403.13, from the Categorical Pretreatment Standards.

(H) To correct typographical or other errors in the permit.

(I) To reflect the transfer of ownership and/or operation of a facility to a new User.

Section 14-50 Wastewater Discharge Permit Transfer. (New 9-26-94)

Permits may be reassigned to a new owner and/or User only after prior written approval of the Director. The permittee must give at least thirty (30) days advance notice of such



reassignment to the Director. Such notice must include a written certification by the new owner and/or User which:

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(A) States that the new owner and/or User has no immediate intent to change the facility's operations and processes.

(B) Identifies the specific date on which the reassignment is to occur.

(C) Agrees to assume responsibility for complying with the existing permit.

The failure to obtain the approval of the Director prior to reassignment renders the permit void as of the date of such reassignment.

Section 14-51 Wastewater Discharge Permit Revocation. (New 9-26-94)

The Director may revoke a permit for the following reasons:

(A) Violation of any permit condition.

(B) Failure to notify the Director of changed conditions of the wastewater prior to the changed discharge.

(C) Failure to accurately report wastewater constituents and characteristics.

(D) Misrepresentation or failure to fully disclose all relevant facts in the wastewater discharge permit application.

(E) Falsifying self-monitoring reports.

(F) Tampering with monitoring equipment.

(G) Refusing to allow Director or authorized representatives of the Director timely access to any and all areas within the facility premises for sampling, inspection, or inspection-related photography.

(H) Refusing to allow Director or authorized representatives of the Director timely access to facility records.

(I) Failure to meet pretreatment standards.

(J) Failure to pay fines.

(K) Failure to pay sewer charges.

(L) Failure to meet compliance schedules.

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- (M) Failure to complete a wastewater survey.
- (N) Failure to provide advance notice of the transfer of ownership of a permitted facility or of the business conducted within such facility.
- (O) Failure to notify the Director of material modifications to the facility.
- (P) Violation of any pretreatment standard or requirement or any other provisions of this ordinance.

Permits shall be voidable for nonuse, cessation of operations or the transfer of business ownership. An existing permit becomes void upon the issuance of a replacement permit.

Section 14-52 Wastewater Discharge Permit Reissuance. (New 9-26-94)

A Significant Industrial User shall apply for permit reissuance at least six (6) months before the expiration of its existing permit by submitting a completed permit application in accordance with Section 14-43, unless otherwise authorized by the Director.

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**ARTICLE 8. REPORTING REQUIREMENTS** (New 9-26-94)**Section 14-53 Baseline Monitoring Reports.** (New 9-26-94)

(A) Within 180 days after the effective date of a Categorical Pretreatment Standard, or 180 days after the final administrative decision on a category determination under 40 C.F.R. § 403.6(a)(4), whichever is later, Industrial Users subject to such Categorical Pretreatment Standards and currently discharging to or scheduled to discharge to the POTW shall submit to the Director a report which contains the information listed in Paragraph B, below. At least ninety (90) days prior to commencement of their discharge, New Sources, including existing Users which have changed their operation or processes so as to become New Sources, shall submit to the Director a report which contains the information listed in Paragraph B, below. A New Source shall also report the method of pretreatment it intends to use to meet applicable pretreatment standards. A new source shall further give estimates of its anticipated flow and quantity of pollutants to be discharged.

(B) Users subject to the requirements of Paragraph A, above, shall submit the following information:

(1) **Identification.** The name and address of the facility, including the name of all owners and/or Users.

(2) **Environmental Permits.** A list of any environmental permits held by or for the facility.

(3) **Description of Operations.** A brief description of the nature, average rate of production, and standard industrial classifications of the operation(s). This description must include a schematic process diagram which indicates points of discharge to the POTW from the regulated processes.

(4) **Flow Measurement.** The measured average and maximum daily flow, in gallons per day, to the POTW from regulated process streams and other streams, as necessary to allow use of the combined wastestream formula set out in 40 C.F.R. § 403.6(e).

(5) **Measurement of Pollutants.**

(a) The Categorical Pretreatment Standards applicable to each regulated process;

(b) The results of sampling and analysis identifying the nature and concentration, and/or mass, where required by the standard or by the Director, of regulated pollutants in the discharge from each regulated process. Instantaneous, daily maximum and long term average concentrations, or mass, where required, shall also be reported. The sample shall



be representative of daily operations. Sampling and analysis shall be performed in accordance with procedures set out in Section 14-60.

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(6) **Certification.** A statement, certified by a qualified professional, indicating whether pretreatment standards are being met on a consistent basis, and, if not, whether additional operation and maintenance ("O&M") and/or additional pretreatment is required in order to meet the pretreatment standards and requirements. Such statement shall be further signed and certified by the Authorized Representative in accordance with Section 14-44.

(7) **Compliance Schedule.** If additional pretreatment and/or O&M will be required to meet the pretreatment standards, the shortest schedule by which such additional pretreatment and/or O&M can be provided. The completion date in this schedule shall not be later than the compliance date established for the applicable pretreatment standard. A compliance schedule pursuant to this section must meet the requirements set out in Section 14-43(A)(7).

Section 14-54 Reports on Compliance with Categorical Pretreatment Standard Deadline.  
(New 9-26-94)

Within ninety (90) days following the date for final compliance with applicable Categorical Pretreatment Standards or, in the case of a New Source, following commencement of the introduction of wastewater into the POTW, any Industrial User subject to such pretreatment standards and requirements shall submit to the Director a report containing the information described in Section 14-53(B)(4-6). For Industrial Users subject to equivalent mass or concentration limits established in accordance with the procedures in 40 C.F.R. § 403.6(c), this report shall contain a reasonable measure of the such User's long term production rate. For all other Industrial Users subject to Categorical Pretreatment Standards expressed in terms of allowable pollutant discharge per unit of production (or other measure of operation), this report shall include such User's actual production during the appropriate sampling period. All compliance reports must be signed and certified in accordance with Section 14-44.

Section 14-55 Periodic Compliance Reports. (New 9-26-94)

(A) Unless otherwise authorized by the Director, Significant Industrial Users shall, at a frequency of at least once every six (6) months, submit a written report indicating the nature and concentration of pollutants in the discharge which are limited by pretreatment standards and the measured or estimated average and maximum daily flow for the reporting period. All periodic compliance reports must be signed and certified in accordance with Section 14-44.

(B) The Industrial User shall be responsible for ensuring that all wastewater samples are representative of the Industrial User's discharge. Wastewater monitoring and flow measurement facilities shall be properly operated, cleaned and maintained in good working order at all times. The failure of an Industrial User to keep its monitoring facility in good working order shall not be grounds for the Industrial User to claim that sample results are unrepresentative of its discharge.

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(C) If an Industrial User subject to the reporting requirements of this section monitors any pollutant more frequently than required by the Director, using the procedures specified in Section 14-60, the results of such monitoring shall be included in the compliance report.

Section 14-56 Reports of Changed Conditions. (New 9-26-94)

Each Industrial User shall notify the Director of any planned significant changes to the Industrial User's operations or pretreatment systems which might alter the nature, quality or volume of its wastewater, at least thirty (30) days before the proposed change. In the event of any such change:

(A) The Director may require the Industrial User to submit such information as may be deemed necessary to evaluate the changed condition, including the submission of a wastewater discharge permit application pursuant to Article 4 of this ordinance.

(B) The Director may issue a wastewater discharge permit or modify the existing permit.

(C) No Industrial User shall implement such change(s) unless approved by the Director in writing.

(D) For the purposes of this section significant changes include, but are not necessarily limited to, flow increases of twenty percent (20%) or greater and the discharge of any previously unreported pollutant.

Section 14-57 Reports of Potential Problems. (New 9-26-94)

(A) In the case of an accidental or other discharge which may cause problems for the POTW or otherwise violate this ordinance, the User shall immediately telephone and notify the Director of the incident. Such notification shall include the location of the discharge, the type of waste, its concentration and volume, if known, and corrective actions taken by the User.

(B) Within five (5) days following any such discharge the User shall, unless waived by the Director, submit a detailed written report describing the cause(s) of the discharge and the measures to be taken by the User to prevent similar future discharges. Such notification shall not relieve the User of any expense, loss, damage, or other liability which may be incurred as a result of damage to the POTW, natural resources, or any other person or property; nor shall such notification relieve the User from liability for any fine, civil penalty, or other obligation which may be imposed by this ordinance.



(C) Industrial Users subject to Section 14-36 of this ordinance shall post a notice indicating whom to call in the event of such a discharge. Such notice shall be maintained at all times in plain view on the Industrial User's bulletin board or other prominent place. Industrial Users shall notify all employees who may be present when such a discharge occurs of the emergency notification procedure.

(D) Failure to appropriately notify the Director in accordance with this section shall be deemed separate and distinct violation from the discharge violation.

Section 14-58 Reports from Unpermitted Industrial Users. (New 9-26-94)

All Industrial Users not subject to Categorical Pretreatment Standards and not required to obtain a wastewater discharge permit shall provide such reports as may be required by the Director.

Section 14-59 Reporting Violations/Repeat Sampling and Reporting. (New 9-26-94)

If sampling performed by an Industrial User indicates a violation, the Industrial User must notify the Director within twenty-four (24) hours of becoming aware of the violation. The Industrial User shall repeat the sampling and analysis and submit the results of such analysis to the Director within thirty (30) days of becoming aware of the initial violation. Notwithstanding the above, the Director may waive resampling requirements if the Director monitors the facility at least once a month, or if the Director conducts a sampling between the Industrial User's initial sampling and the Industrial User's receipt to the results of the initial sampling.

Section 14-60 Analytical Requirements. (New 9-26-94)

All pollutant analyses, including sampling techniques, to be submitted as part of a wastewater discharge permit application or any monitoring report shall be performed in accordance with the techniques prescribed in 40 C.F.R., Part 136, unless otherwise specified in an applicable Categorical Pretreatment Standard. If 40 C.F.R., Part 136, does not contain sampling or analytical techniques for the pollutant in question, sampling and analyses shall be performed in accordance with procedures approved by EPA and the Town and the County.

Section 14-61 Sample Collection. (New 9-26-94)

(A) Except as indicated in paragraph B, below, the Industrial User must collect wastewater samples using flow proportional composite collection techniques. In the event flow proportional sampling is infeasible, the Director may authorize the use of time proportional sampling or a minimum of four (4) grab samples where the User demonstrates that this will provide a representative sample of the discharge. In addition, grab samples may be required to show compliance with instantaneous discharge limits.

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(B) Samples for oil and grease, temperature, pH, cyanide, phenols, sulfides and volatile organic compounds must be obtained using grab collection techniques. Other parameters, as identified in 40 C.F.R., Part 403, may also require sampling by grab collection.

Section 14-62 Timing. (New 9-26-94)

Unless otherwise specifically provided, written reports will be deemed to have been submitted on the date postmarked if properly addressed to the Director and if received by the Director's office within five (5) days of the postmark date. Reports which are not mailed, postage prepaid, within a mail facility serviced by the United States Postal Service shall be deemed to have been submitted on the date such reports are received by the Director's office.

Section 14-63 Monitoring Records. (New 9-26-94)

Industrial Users shall retain and make available for inspection and copying, all records and information obtained pursuant to any monitoring activities required by this ordinance and, additionally, records of information obtained pursuant to monitoring activities undertaken by the Industrial User independent of such requirements. Such records shall include the date, exact place, method, time of sampling, name of the person or persons taking the sample, date of analyses, name of the person or persons conducting the analyses, analytical techniques or methods used and the results of such analyses. Such records shall remain available for a period of at least three (3) years. This period shall be automatically extended for the duration of any litigation regarding the discharge of pollutants by the Industrial User or concerning compliance with this ordinance, or where the Industrial User has been specifically notified of a longer retention period by the Director or the EPA.



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**ARTICLE 9. COMPLIANCE MONITORING.** (New 9-26-94)Section 14-64 Right of Entry: Inspection and Sampling. (New 9-26-94)

(A) Industrial Users shall allow the Director and any duly authorized representative of the Director ready access to all areas of the premises of the Industrial User for the purposes of inspection, inspection-related photography, sampling, records examination and copying and any other purposes related to the enforcement of this ordinance.

(B) Where an Industrial User has security measures in force which require proper identification and clearance before entry into its premises, such User shall make necessary arrangements with its security staff so that, upon presentation of suitable identification, the Director and any duly authorized representative of the Director, State, and EPA personnel will be permitted to enter without delay for the purpose of performing their responsibilities pursuant to this ordinance and applicable State and Federal law.

(C) No Industrial User shall refuse or unreasonably delay access by the Director to the Industrial User's premises.

Section 14-65 Monitoring Facilities. (New 9-26-94)

(A) The Director and State and EPA personnel shall have the right to set up, or require the installation of, on the Industrial User's property, such devices as are necessary to conduct sampling, and/or metering of such User's operations.

(B) All Significant Industrial Users shall provide monitoring facilities. Unless an alternate design is required or approved by the Director, monitoring facilities shall consist of a manhole or vault constructed in accordance with the applicable plans and specifications contained in the Fairfax County Public Facilities Manual. The monitoring facility shall be located on the User's premises, in the User's building sewer, unless otherwise authorized by the Director. In addition, the Director may require an Industrial User to install monitoring equipment, as necessary. Such equipment shall be maintained at all times in a safe and proper operating condition at the expense of such User. All devices used to measure wastewater flow and quality shall be calibrated periodically to ensure measurement accuracy.

(C) When more than one (1) User can discharge into a common building sewer, the Director may require installation of a separate monitoring facility for each User. When, in the opinion of the Director, there is a significant difference in the wastewater constituents and characteristics produced by the different operations of a single User, the Director may require separate monitoring facilities for each regulated process.

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(D) The monitoring facility shall be located so as to be readily accessible to the Director. Any temporary or permanent obstruction to safe and easy access to the facility to be inspected and/or sampled shall be promptly removed by the Industrial User at the written or verbal request of the Director and shall not be replaced except as permitted by the Director. The costs of clearing such obstruction shall be borne by the Industrial User.

(E) All domestic-natured waste from new sources which are Significant Industrial Users shall be kept separate from all industrial wastes until the industrial wastes have passed through the User's pretreatment facility and monitoring facility.

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**ARTICLE 10. ENFORCEMENT** (New 9-26-94)**Section 14-66 Publication of Industrial Users in Significant Noncompliance.** (New 9-26-94)

The Town of Vienna shall annually publish, in a newspaper with the largest daily circulation in the Town of Vienna, a list of the Industrial Users which, during the previous 12 months, were in significant noncompliance with applicable pretreatment standards and requirements. The term significant noncompliance shall mean a violation which meets one or more of the following criteria:

(A) That sixty-six percent (66%) or more of the wastewater pretreatment measurements taken during a 6-month period exceeded the discharge limit for any one pollutant;

(B) That thirty-three percent (33%) or more of the wastewater measurements taken during a 6-month period for each pollutant parameter equals or exceeds the product of the daily maximum limit or the average limit multiplied by the applicable criteria (1.4 for BOD, TSS, oil and grease, and 1.2 for all other pollutants except pH);

(C) Any discharge that the Director determines has caused, alone or in combination with other discharges, interference or pass through (including endangering the health of POTW personnel or the general public);

(D) Any discharge that has caused imminent danger to the public or to the environment, or has resulted in the Director's exercise of his emergency authority to halt or prevent such a discharge;

(E) The failure to meet, within ninety (90) days after the scheduled date, a compliance schedule milestone contained in a permit or enforcement order for starting construction, completing construction or attaining final compliance;

(F) The failure to provide, within thirty (30) days after the due date, any report required by this ordinance;

(G) The failure to accurately report noncompliance; or

(I) Any other violation(s) which the Director determines will adversely affect the operation or implementation of the POTW's pretreatment program.



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Section 14-67 Notice of Violation. (New 9-26-94)

When the Director determines that any Industrial User has violated or is violating any provision of this ordinance, a permit or order issued hereunder, or any other pretreatment requirement, the Director may serve upon such User a written Notice of Violation. Within five (5) days of the receipt of this notice, the Industrial User must, unless such requirement is waived by the Director, submit to the Director, an explanation of the violation and a plan for the satisfactory correction and prevention thereof, to include specific required actions. Submission of this plan shall not relieve the Industrial User of liability for any violations occurring before or after receipt of the Notice of Violation. Nothing in this section shall limit the authority of the Director to take emergency action or other appropriate enforcement action without first issuing a Notice of Violation.

Section 14-68 Consent Orders. (New 9-26-94)

The Director may enter into Consent Orders, assurances of voluntary compliance, or other similar documents establishing an agreement with any Industrial User that has violated or is in violation of a provision of this ordinance. Such orders may include specific action to be taken by the Industrial User to correct such violation within a specified time period. Such documents shall have the same force and effect as Compliance Orders issued pursuant to § 67.1-8-5 and shall be judicially enforceable.

Section 14-69 Show Cause Hearing. (New 9-26-94)

The Director may order any Industrial User which has violated, or is violating, any provision of this ordinance, permits or orders issued hereunder, or any other pretreatment requirement, to appear before the Director and show cause why a proposed enforcement action should not be taken. Notice shall be served on the Industrial User specifying the time and place for the meeting, the proposed enforcement action, the reasons for such action, and a request that such User show cause why the proposed enforcement action should not be taken. The notice of the meeting shall be served personally or by registered or certified mail, return receipt requested, at least ten (10) days prior to the hearing. Such notice may be served on any Authorized Representative of the Industrial User. A show cause hearing is neither a bar against nor a prerequisite to any other enforcement action under this ordinance.

Section 14-70 Compliance/Cease and Desist Orders. (New 9-26-94)

(A) When the Director finds that an Industrial User has violated or is violating this ordinance, permits or orders issued hereunder, or any other pretreatment requirement, the Director may issue an order directing the Industrial User to cease and desist all such violations and to:

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(1) Immediately, or within a specified time period, comply with all ordinance requirements.

(2) Take such appropriate remedial or preventive action as may be needed to properly address a continuing or threatened violation, including halting operations and/or terminating the discharge.

(3) Take such action as might be reasonably necessary and appropriate to address the noncompliance, including additional self-monitoring and management practices designed to minimize the amount of pollutants discharged to the sewer. The Director may require such additional self-monitoring for up to ninety (90) days after consistent compliance has been achieved, after which time the self-monitoring requirements of the permit shall recommence.

(B) Such orders may also provide that sewer service shall be discontinued unless after a specified time period, adequate treatment facilities, devices, or other related appurtenances are installed and properly operated.

(C) A Compliance/Cease and Desist Order shall be judicially enforceable and is neither a bar against nor a prerequisite to any other enforcement action under this ordinance.

Section 14-71 Emergency Suspensions. (New 9-26-94)

(A) The Director may suspend wastewater treatment service, and/or the permit of an Industrial User and further, in coordination with the Fairfax County Water Authority, water service, whenever such suspension(s) is/(are) necessary to stop an actual or threatened discharge which reasonably appears to present or cause an imminent or substantial endangerment to the health, safety or welfare of persons, which interferes with the operation of the POTW, or which presents an endangerment to the environment.

(B) Any Industrial User notified of the suspension of its permit shall immediately stop or eliminate its contribution. In the event of an Industrial User's failure to immediately comply voluntarily with the suspension order, the Director shall take such measures deemed necessary, including severance of the sewer connection, to prevent or minimize damage to the system, its receiving stream, or endangerment to individuals or the environment. The Director may allow the Industrial User to recommence its discharge when such User has demonstrated to the satisfaction of the Director that the period of endangerment has passed.

(C) An Industrial User which is responsible, in whole or in part, for any discharge which presents an imminent endangerment to the health, safety or welfare of persons, which interferes with the operation of the POTW, or which presents an endangerment to the environment shall submit a detailed written statement describing the causes of the harmful contribution and the

measures taken to prevent any future occurrence to the Director prior to the date of any show cause hearing under Section 14-69.

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(D) Nothing in this section shall be interpreted as requiring a hearing prior to any emergency suspension under this section.

Section 14-72 Show Cause Suspensions. (New 9-26-94)

Upon notice and opportunity to show cause under Section 14-69 the Director may suspend wastewater treatment service and, in coordination with the water supplier, water service, for any violation set forth in Section 14-51. For good cause and upon such notice and opportunity to show cause, the Director may further direct the physical severance of the User's sewer connection to the POTW.

Section 14-73 Injunctive Relief. (New 9-26-94)

When the Director determines that an Industrial User has violated or continues to violate the provisions of this ordinance, permits or orders issued hereunder, or any other pretreatment requirement, the Director may petition the Circuit Court for the issuance of injunctive or other appropriate equitable relief, including a requirement for the Industrial User to conduct environmental remediation. Such relief is neither a bar against nor a prerequisite to other enforcement action pursuant to this ordinance.

Section 14-74 Search Warrants. (New 9-26-94)

If the Director has been refused access to a building, structure or property, or any part thereof, he may obtain a search warrant upon demonstrating, to the satisfaction of any judge, magistrate or other person having authority to issue criminal warrants, that reasonable and probable cause exists to believe that there has been a violation of this ordinance, or that there is a need to inspect and/or sample pursuant to this ordinance. Such search warrant shall be based upon a complaint under oath supported by an affidavit.

Section 14-75 Civil Penalties. (New 9-26-94)

(A) Any Person who violates any provision of this ordinance, any order or permit issued hereunder, or any other pretreatment requirement shall be liable to the Town for a civil penalty, not to exceed the maximum fine allowed for a Class 1 misdemeanor, for every such violation. Each day on which a violation exists shall constitute a separate violation.

(B) In determining the amount of liability, the Court shall take into account all relevant circumstances including, but not limited to, any economic benefit gained by the User as a result of the violation(s).

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(C) Any Person whose acts result in the assessment of a civil penalty against the Town of Vienna, pursuant to Va. Code § 62.1-44.32, shall be liable to the Town of Vienna for such penalty.

(D) Such relief is neither a bar against nor a prerequisite to other enforcement action pursuant to this ordinance.

Section 14-76 Criminal Violations. (New 9-26-94)

Any Person who willfully or negligently violates any provision of this ordinance, any order or permit issued hereunder, or any other pretreatment requirement, shall, upon conviction, be guilty of a Class 1 misdemeanor and punishable by the maximum fine or imprisonment, or both fine and imprisonment, as provided by law. Each day for which a violation is proven shall constitute a separate violation.

Section 14-77 Remedies Nonexclusive. (New 9-26-94)

The remedies provided in this ordinance are not exclusive and may be taken individually or in combination with each other or in addition to remedies available under State and Federal law.

Section 14-78 Appeal. (New 9-26-94)

(A) Decisions regarding the issuance or terms of a wastewater discharge permit may be appealed in accordance with Section 14-48.

(B) Decisions, other than decisions regarding the issuance or terms of a wastewater discharge permit, which interpret or implement the terms of this ordinance, may be appealed by any person aggrieved, including the Industrial User, by filing such appeal with the Director, within ten (10) days of such decision. Such appeal is deemed timely filed if received at the office of the Director within ten (10) days of the date of such decision or, if mailed, if properly addressed to the Director and postmarked within ten (10) days of the date of such decision, provided that such appeal, if mailed, is actually received by the Director within 15 days of the date of such decision.

(1) Failure to submit a timely appeal shall be deemed to be a waiver of the right to appeal.

(2) The appealing party must set forth in detail the justification for such appeal, including the alternative decision it seeks in lieu of the decision complained of.



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(3) The decision appealed is not stayed pending the outcome of the appeal.

(4) If the Director fails to act on the appeal within thirty (30) days, the appeal shall be deemed to be denied. The denial of an appeal shall be considered final administrative action for the purposes of judicial review.

(5) If the ruling made by the Director is unsatisfactory to the person requesting reconsideration, he may, within ten (10) days after notification of the Town's action, file a written appeal to the Vienna Town Council. Failure of the Council to rule on such appeal within sixty (60) days from the date of filing shall be deemed to be a denial of the appeal. The Director's decision, action or determination shall remain in effect during such period of reconsideration.

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